

REMARKS

In response to the restriction requirement, Applicants elect the claims of Group II (newly added claim 20, now replacing claim 17, claim 18 and newly added claims 21-22) with traverse. Applicants submit that the invention encompassed by the claims of Group II (drawn to methods of identifying polynucleotides) and the newly added polynucleotide product claim 19 upon which they depend, could be examined at the same time, without undue burden on the Examiner. Claims to polynucleotides, albeit of a different scope, have already been examined and allowed in an ancestor application. The previous restriction requirement between the product and the process claims of Group II should have been withdrawn (see the Commissioner's Notice in the Official Gazette of March 26, 1996, entitled "Guidance on Treatment of Product and Process Claims in light of *In re Ochiai*, *In re Brouwer* and 35 U.S.C. § 103(b)" which sets forth the rules, upon allowance of product claims, for rejoinder of process claims covering the same scope of products) upon allowance of the product claims in the ancestor application, but this was not done. In the interest of fairness and balancing the burden on Applicants, it is respectfully requested that the new product claims be examined in conjunction with these process claims.

In addition, Applicants have already been issued polypeptide product claims, albeit of a different scope from the present claim 1. Applicants submit that a similar search as already been conducted on the polypeptide claims, and moreover, because the searches required to identify prior art relevant to the claims of Groups I, II and the newly added polynucleotide claims would substantially overlap, Applicants respectfully submit that examination of all of the pending claims would pose no undue burden. Thus, Applicants request reconsideration and withdrawal of the Restriction Requirement and examination of the entirety of Applicants' claims, including those newly added. Applicants respectfully submit that there is minimal additional burden on the Examiner to examine those claims in addition to the claims elected in the present application, particularly in view of the searches and examination which were already conducted with respect to the previously issued claims and the additional burden on Applicants to file, prosecute and maintain yet another application in this family, and respectfully request that the Examiner consider doing so.

Applicants believe that no fee is due with this communication. However, if the USPTO determines that a fee is due, the Commissioner is hereby authorized to charge Incyte Pharmaceutical, Inc. Deposit Account No. 09-0108.

This form is enclosed in duplicate.

Respectfully submitted,

INCYTE PHARMACEUTICALS, INC.

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